

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
STACEY MERCER, :
:
Plaintiff, :
: 21-cv-8251 (VSB)
-against- :
: **ORDER**
MESFIN LIQUORS INC. et al., :
:
Defendants. :
:
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VERNON S. BRODERICK, United States District Judge:

Plaintiff filed this action on October 6, 2021, (Doc. 1), and filed affidavits of service on October 18, 2021, (Docs. 7 & 8). The original deadline for Defendants to respond to Plaintiff's complaint was November 5, 2021. (See Docs. 7 & 8.) Defendants did not appear or respond to the complaint. On November 17, 2021, I directed Plaintiff to seek a default judgment by no later than December 1, 2021. (Doc. 9.) Plaintiff did so, (Docs. 10–18), and I scheduled a show cause hearing for January 28, 2022, (Doc. 19). On December 7, 2021, Defendant Mesfin Liquors Inc. ("Mesfin") appeared and requested an extension of time to file its answer. (Docs. 21 & 22.) I granted the request, (Doc. 23), setting an answer deadline for January 7, 2022 and vacating the Certificate of Default against Defendant Mesfin, (Doc. 12). On January 7, 2022, Defendant East River Portfolio Partners II, LLC ("East River") likewise requested an extension of time to file its answer. (Doc. 25.) I also granted that request, (Doc. 26), setting an answer deadline for January 29, 2022 and vacating the Certificate of Default against East River, (Doc. 12). Defendant Mesfin filed an answer on January 7, 2022. (Doc. 27.)

To date, Defendant East River has still failed to respond to the complaint. On February

1, 2022, I directed Plaintiff to seek a default judgment against Defendant East River, again, by no later than February 8, 2022, and I warned, “If Plaintiff fails to do so or otherwise demonstrate that she intends to prosecute this litigation, I may dismiss this case against Defendant East River for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).” Defendant East River has not responded to the complaint, and Plaintiff has not sought a default judgment.

Accordingly, Plaintiff’s claims against Defendant East River are dismissed without prejudice pursuant to Rule 41(b). The Clerk of Court is respectfully directed to terminate Defendant East River from this action.

SO ORDERED.

Dated: February 9, 2022
New York, New York



Vernon S. Broderick
United States District Judge